

**SPECIAL ACTIONS RELATING TO THE HARRIS-GALVESTON
COASTAL SUBSIDENCE DISTRICT**

§293.361. Definitions.

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

Board-Board of directors of the Harris-Galveston Coastal Subsidence District.

Monitoring-Water samples taken and analyzed, continuous water quality measurements, and/or physical measurements of water flow and pressure in certain water collection and distribution lines as deemed appropriate by the commission to determine the groundwater and surface water percentages of alternative water supply.

Permit year-A 365-day period of time during which a person is authorized by the Harris-Galveston Coastal Subsidence District to use groundwater.

Samples-Water samples taken to determine groundwater and surface water percentages in the alternative water supply.

Water chemist-A person or persons with expertise in water chemistry designated by the executive director to be the principal investigator.

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§293.362. Request to Monitor Delivered Water.

(a) Upon the submittal of a written request pursuant to Water Code §151.129, to the executive director by a person ordered by the board to completely or partially discontinue the use of groundwater, the executive director shall monitor the water delivered to the person from the alternative water supply as defined in Water Code §151.129(f) to determine the percentage of that water supply that is surface water and the percentage that is groundwater. The request for monitoring must be submitted, together with the following information, to the executive director no later than six months prior to the end of the permit year immediately following the board's order. The submittal of an administratively complete request will entitle the person to monitoring not during that permit year, but during the first succeeding permit year, subject to the provisions of subsection (b) of this section. For purposes of Water Code §151.129, a person shall be deemed to have been ordered to completely or partially discontinue the use of groundwater the board issues a permit that results in the person's use of surface water as an alternative water supply. For purposes of Water Code §151.129, the request for monitoring shall be deemed made as of the first day of the permit year following the timely receipt by the executive director of an administratively complete request subject, however, to the provisions of subsection (b) of this section. The following information shall be provided to the executive director with the request for monitoring:

(1) a layout of the existing facilities and distribution lines owned by the person, including without limitation, designation of all points of connection to any alternative water supply;

(2) engineering specifications for facilities and lines described in paragraph (1) of this subsection;

(3) results of previous investigations regarding percentages of groundwater and surface water supplied to the person making the request;

(4) if the person is a political subdivision of the state, a copy of the resolution adopted by the governing body authorizing the request;

(5) a certified copy of the permit for the year covered by the board's order;

(6) if the person is a corporation, a resolution adopted by its board of directors authorizing the request; and

(7) any additional information deemed relevant to the monitoring request and requested by the executive director.

(b) If a person fails to comply fully with subsection (a) of this section, the person's alternative water supply will not be monitored during the permit year immediately succeeding the permit year covered by the board's order. Upon receipt of the information set forth in subsection (a) of this section, the monitoring request will be administratively complete.

(c) After an appropriate review of the information submitted under subsection (a) of this section, if the executive director determines that the monitoring request is technically deficient, the executive director may request additional information from the person or the board, or both. The monitoring period shall not commence until six months from the date the application is deemed technically sufficient by the executive director.

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§293.363. Action on the Request to Monitor Delivered Water.

After an appropriate review of an administratively complete application, the executive director shall:

(1) designate a principal staff investigator;

(2) determine the method of investigation and monitoring consistent with good engineering practices and Water Code §151.129, and which will fairly determine and reflect the annual groundwater and surface water percentage of the alternative water supply;

(3) determine requirements for field equipment;

(4) determine the type, frequency, and number of necessary physical and chemical analyses, procedures with regard to collecting water samples and location of monitoring and/or sampling stations;

(5) determine the fee necessary to compensate the commission for the requested study on the basis of one-half to the water purchaser and one-half to the water seller; and

(6) notify the board of the determinations made pursuant to paragraphs (1)-(5) of this section at a point prior to the commencement of the actual monitoring sufficient to give the board an opportunity to comment on the determinations prior to monitoring.

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§293.364. Analysis and Report.

The executive director shall prepare and issue not later than the 15th day after the last day of the permit year an annual certified report (written analysis) based on the investigation and monitoring, which will state the annual average percentages of surface water and groundwater provided to the purchaser by the seller of the alternative water supply for that permit year. The executive director's annual certified report shall be determinative and controlling for purposes of determining the percentages of surface water and groundwater in the alternative water supply pursuant to Water Code §151.129.

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§293.365. Appeal of Final Decision of Board.

(a) A person who is granted a permit authorizing withdrawal of groundwater in an amount less than that requested by the person may appeal the final decision of the board to the commission by filing a request for commission review of the board's final decision with the executive director within 60 days after the final order of the board.

(b) If the person appealing the final decision of the board to the commission has requested written findings and conclusions from the board, such findings and conclusions shall be filed with the executive director either with the request for commission review if the findings and conclusions are then available or as soon thereafter as they become available.

(c) The executive director may request additional information from the appellant, the board, or both concerning the final decision of the board. A request for commission review is administratively complete when all of the information requested, including the information requested in subsection (b) of this section, has been submitted. A complete application shall be delivered to the chief clerk for the setting of a hearing on the appeal.

(d) The review on appeal by the commission under this section is governed by the substantial evidence rule as defined in the Administrative Procedure Act, Government Code §2001.174. The final decision of the commission may adopt, modify or reject the findings and conclusions of the board. If the commission rejects the findings and conclusions of the board, it shall adopt its own findings of fact and

conclusions of law. The commission shall issue a final ruling on the appeal no later than 60 days from the date the hearing on the appeal is closed.

(e) The hearing on the appeal shall be conducted, to the extent applicable given the limited scope of review under the substantial evidence rule, in accordance with the procedural rules of the commission; provided, however, that such hearing shall not be conducted as a contested case, and the foregoing procedural rules shall apply only to the extent that they do not exceed the scope of the commission's review under the substantial evidence rule. Nothing herein shall be interpreted to give the person a right to a trial de novo or to introduce evidence other than the record of the proceedings before the Board.

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